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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments) MB Docket No. 05-243
FM Broadcast Stations)
(Meeteetse, Wyoming))

To: Office of the Secretary
Attn: Assistant Chief, Audio Division
Media Bureau

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Federal Communications Commission
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COUNTERPROPOSAL

MILLCREEK BROADCASTING, LLC

SIMMONS SLC-LS, LLC

3 POINT MEDIA – COALVILLE, LLC

3 POINT MEDIA- DELTA, LLC

COLLEGE CREEK BROADCASTING, LLC

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SUMMARY

This Counterproposal is filed on behalf of Millcreek Broadcasting, LLC, Simmons SLC-LS, LLC, 3 Point Media - Coalville, LLC, 3 Point Media - Delta, LLC, and College Creek Broadcasting LLC, licensees of, and permittees for, all but eight of the Stations implicated in this Counterproposal. The Joint Parties are filing this Counterproposal in response to the *Notice of Proposed Rule Making*, DA 05-2205 (*rel.* Jul. 29, 2005) in the above-captioned proceeding. The Joint Parties propose a number of changes to the FM Table of Allotments which, taken together, will (i) establish first local services in the communities of Wilson, Wyoming, and Ballard, Utah (with a combined population of 1,860), and (ii) result in a net gain in radio service to 233,238 people. The consent statements of the licensees of the stations that are not owned by the Joint Parties are attached to this Counterproposal. Finally, in this Counterproposal, the Joint Parties request that the Commission issue an Order to Show Cause to Idaho Wireless Corporation the licensee of one station implicated in this proposal, to show why their channels should not be changed at their current sites.

This Counterproposal conflicts with the *NPRM* proposal to allot Channel 295C to Meeteetse, Wyoming, due to the proposed allotment of Channel 260C3 to Wilson, Wyoming. Under the FM allotment priorities, the Commission should favor first local services at Wilson, Wyoming, and Ballard, Utah (with a combined population of 1,860). Nevertheless, the Joint Parties offer a substitute channel at Meeteetse so that both proposals can be granted.

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COUNTERPROPOSAL

Millcreek Broadcasting, LLC ("Millcreek"), licensee of Station KUUU(FM), South Jordan, Utah; Simmons SLC-LS, LLC ("Simmons"), licensee of Station KAOX(FM), Kemmerer, Wyoming; 3 Point Media - Coalville, LLC ("3 Point Coalville"), licensee of Station KCUA(FM), Naples, Utah; 3 Point Media - Delta, LLC ("3 Point Delta"), licensee of Station KMGR(FM), Delta, Utah; and College Creek Broadcasting LLC ("College Creek"), permittee of allotments at Evanston, Wyoming, and Wellington, Utah (together, the "Joint Parties"), by their counsel, hereby submit this counterproposal to the *Notice of Proposed Rule Making*, DA 05-2205 (rel. Jul. 29, 2005) ("*NPRM*") in the above-captioned proceeding. The Joint Parties propose a number of changes to the FM Table of Allotments which, taken together, will provide first local services to two communities and substantially increase service to many listeners. The following amendments to the FM Table of Allotments are requested (listed alphabetically):

Community	Channel	
	Existing	Proposed
Fruita, CO	255C3, 260C	260C, 268C3
Burley, ID	260C	228C

Idaho Falls, ID	241C, 256C1, 277C1, 288C1, 296C1	241C, 256C1, 277C1, 288C1, 300C1
Pocatello, ID	221C2, 229C, 235C, 273C	221C2, 230C, 235C, 273C
Shelley, ID	---	297C1
Soda Springs, ID	261C2	--- ¹
Weston, ID	240C3	260C3
Delta, UT	240C1	--- ²
Naples, UT	223C3	255C2
Price, UT	252C3, 261A	237C3, 261A
Randolph, UT	272C	272C, 240C
Roosevelt, UT	232C1, 253C2	232C1
Salina, UT	233C	239C
South Jordan, UT	223C2	223A
Wellington, UT	237C3	233C3
Diamondville, WY	287C2	277C2, 223C1
Evanston, WY	252C2, 291C	252C, 292C
Kemmerer, WY	297C2	--- ³
Marbleton, WY	239C1	257C1
Meeteetse, WY	---	288C
Wilson, WY	---	260C3

In support hereof, the Joint Parties state as follows:

I. PRELIMINARY MATTERS

1. The Joint Parties own all but eight of the stations involved in this counterproposal.

With respect to these eight remaining stations, the Joint Parties have reached agreement with the licensees of seven of those stations for the changes proposed herein. The consent statements of the licensees of KARB(FM), Price, Utah, KQEO(FM), Idaho Falls, Idaho, KLZX(FM), Weston, Idaho, KZDX(FM), Burley, Idaho, KITT(FM), Soda Springs, Idaho, KFMR(FM), Marbleton, Wyoming, and KIFX(FM), Roosevelt, Utah, are attached hereto as Exhibit 1. The underlying agreements provide that the Millcreek will reimburse the licensees for their expenses in making

¹ Soda Springs, ID will continue to be served by Station KBRV(AM).

² Delta, UT will continue to be served by KNAK(AM).

³ Kemmerer, WY will continue to be served by KMER(AM).

the changes, and Millcreek hereby states that it will do so.⁴ The Joint Parties request that the Commission issue an Order to Show Cause to Idaho Wireless Corporation ("Idaho Wireless"), licensee of Station KZBQ(FM), Pocatello, Idaho, to show why its channel should not be changed at its current sites as set forth herein. The Joint Parties hereby states that they will reimburse Idaho Wireless, for its reasonable expenses in changing channels in accordance with *Circleville, Ohio*, 8 FCC 2d 159 (1967). Thus, this proposal complies with the Commission's policy in *Columbus, Nebraska*, 59 RR 2d 1185 (1986).

2. This counterproposal will establish first local services in the communities of Wilson, Wyoming and Ballard, Utah. The Joint Parties hereby state that they will apply for the respective channels and construct the facilities if their respective applications are granted.

3. The Joint Parties hereby state that pursuant to Section 1.420(j), they have not paid nor promised to pay, in any agreement, any licensee, permittee or applicant for withdrawing an expression of interest, dismissing an application or forbearing to file an expression of interest or application.

II. CONFLICT WITH THE *NPRM*

4. As indicated in the attached Engineering Statement, this proposal conflicts with the *NPRM* proposal to allot Channel 259C to Meeteetse, Wyoming, due to the proposed allotment of Channel 260C3 to Wilson, Wyoming. However, the Joint Parties offer the following substitute channel, Channels 288C, that can be allotted to Meeteetse and avoid the conflict.⁵ If for some reason the substitute channel cannot be allotted, the Commission should favor first local services at Wilson, Wyoming (2000 U.S. Census pop. 1,294) and Ballard, Utah

⁴ Millcreek is a party to the agreements with each of the affected stations. The Joint Parties have arranged among themselves that Millcreek will pay those expenses.

⁵ In the alternative, the Joint Parties also offer the following substitute channels, Channels 292C, 267C, and 265C, that can be allotted to Meeteetse and avoid the conflict.

(2000 U.S. Census pop. 566) over a first local service to Meeteetse, Wyoming (2000 U.S. Census pop. 351) under its FM priorities. *See Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982).

III. COMPLIANCE WITH THE COMMISSION'S TECHNICAL RULES

A. NEW CHANNEL 252C2, EVANSTON, WYOMING

5. College Creek proposes to upgrade its unbuilt station at Evanston, Wyoming, from Channel 252C2 to Channel 252C. Channel 252C can be allotted to Evanston at the station's current coordinates in compliance with the Commission's spacing rules provided that a change is made at Roosevelt, Utah and Price, Utah. *See Figure 1.* Those changes will be discussed below. From the proposed site the station will provide a 70 dBu signal to Evanston. *See Figure 2.*

6. College Creek holds the construction permit for Channel 252C2 at Evanston. College Creek hereby states that it will file an application for the new channel and construct the facilities if its application is granted.

B. STATION KARB(FM), PRICE, UTAH

7. In order to allot Channel 252C to Evanston, Wyoming, Station KARB(FM), Price, Utah, must change its channel from 252C3 to 237C3. Channel 237C3 can be allotted to Price at the station's current coordinates in compliance with the Commission's spacing rules provided that a change is made at Wellington, Utah as discussed below. *See Figure 4.* Eastern Utah Broadcasting Company has provided a consent statement in which it states that, as the licensee of KARB(FM), it will apply for Channel 237C3 to serve Price at new reference coordinates and construct the facility if a permit is granted. *See Exhibit 1.* Millcreek reiterates that it will reimburse the licensee for its expenses in making the change in channel.

C. NEW CHANNEL 237C3, WELLINGTON, UTAH

8. In order to allot Channel 237C3 to Price, a channel substitution must be made for Channel 237C3 at Wellington, Utah. Channel 233C3 be allotted to Wellington at new reference coordinates in compliance with the Commission's spacing rules provided that a change is made at Salina, Utah, as discussed below. *See* Figure 5. From the proposed site the station will provide a 70 dBu signal to Wellington. *See* Figure 6.

9. College Creek holds the construction permit for Channel 237C3 at Wellington. College Creek hereby states that it will file an application for the new channel and construct the facilities if its application is granted.

D. VACANT CHANNEL 233C, SALINA, UTAH

10. In order to allot Channel 233C3 at Wellington, Utah, Channel 239C must be substituted for vacant Channel 233C at Salina, Utah. Channel 233C was allotted to Salina in *Salina, Utah*, 18 FCC Rcd 25793 (2003). Channel 239C can be allotted to Salina at a new transmitter site provided that a change is made at Delta, Utah as discussed below. *See* Figure 8. From the new transmitter site, the station will place a 70 dBu contour over all of Salina. *See* Figure 9. Since the channel is vacant, no consent is necessary to make the change.

E. STATION KMGR(FM), DELTA TO RANDOLPH, UTAH

11. In order to allot Channel 239C at Salina, Utah, Station KMGR(FM), Delta, Utah, must change its channel from 240C1 to 240C0 and relocate to Randolph, Utah as that community's second local service.

1. Technical Studies

12. As indicated in the attached channel study, Figure 11, Channel 240C0 can be allotted to Randolph in compliance with the Commission's spacing rules provided that changes

are made at Weston, Idaho and Marbleton, Wyoming. These changes will be discussed below. From the proposed site the station will provide a 70 dBu signal to Randolph. See Figure 12.

2. Change in Community of License

13. In *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License* ("Community of License"), 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990), the Commission stated that in order to grant a change in community of license: (1) the proposed use of the channel must be mutually exclusive with its current use; (2) the existing community of license must retain local service; and (3) the proposed arrangement of allotments must be preferred over the existing arrangement under the Commission's allotment priorities.

14. Here, the attached channel study, Figure 11, demonstrates that the proposed allotment of Channel 240C0 at Randolph is mutually exclusive with the current allotment of Channel 240C1 at Delta. Delta will retain existing local service because Station KNAK(AM) will remain licensed to Delta. Here, the proper comparison is the provision of first local services at Wilson, Wyoming (2000 U.S. Census pop. 1,294) and Ballard, Utah (2000 U.S. Census pop. 566), under priority (3) versus a second local service to Delta (2000 Census pop. 3,209) under priority (4). The allotment of Channel 240C0 to Randolph will result in a net loss in 60 dBu service to 200,937 people, which is outweighed by the overall gains in service. See Figure 13. The loss area will continue to receive adequate aural service. See Figure 14.

15. Randolph has previously been determined to be qualified as a community by virtue of the allotment of Channel 272A. See *Randolph, Utah*, 12 FCC Rcd 8311 (1997). Randolph is listed in the 2000 U.S. Census with a population of 483 persons and therefore is presumed to have the status of a community for allotment purposes. See *Arnold and Columbia, California, supra*. 3 Point-Delta reiterates that, as the licensee of KMGR(FM), it will apply for

Channel 240C0 to serve Randolph at a new transmitter site and construct the facility if a permit is granted.

F. STATION KLZX(FM), WESTON, IDAHO

16. In order to allot Channel 240C0 to Randolph, Station KLZX(FM), Weston, Idaho, must change from Channel 240A to Channel 260C3.⁶ Channel 260C3 can be allotted to Weston at its current site in compliance with the Commission's spacing rules provided that changes are made at Burley and Soda Springs, Idaho. *See* Figure 15. Those changes will be discussed below. The station will continue to place a 70 dBu contour over Weston. Sun Valley Radio, Inc. has provided a consent statement in which it states that, as the licensee of KLZX(FM), it will apply for Channel 260C3 to serve Weston at new reference coordinates and construct the facility if a permit is granted. *See* Exhibit 1. Millcreek reiterates that it will reimburse the licensee for its expenses in making the change in channel.

G. STATION KZDX(FM) BURLEY, IDAHO

17. In order to allot Channel 260C0 to Weston, Station KZDX(FM), Burley, Idaho, must change from Channel 260C to Channel 228C. Channel 228C can be allotted to Burley at new reference coordinates in compliance with the Commission's spacing rules provided that changes are made at Pocatello, Idaho. *See* Figure 16. Those changes will be discussed below. The station will continue to place a 70 dBu contour over Burley. *See* Figure 17. Eagle Rock Broadcasting Co, Inc. has provided a consent statement in which it states that, as the licensee of KZDX(FM), it will apply for Channel 228C to serve Burley at new reference coordinates and construct the facility if a permit is granted. *See* Exhibit 1. Millcreek reiterates that it will reimburse the licensee for its expenses in making the change in channel.

⁶ Station KLZX(FM) has a permit to operate in Channel 240C3. BPH-20020404AAH.

H. STATION KZBQ(FM), POCA TELLO, IDAHO

18. In order to allot Channel 228C to Burley, Idaho, Station KZBQ(FM), Pocatello, must change its channel from 229C to 230C. Channel 230C can be allotted to Pocatello at the allotment's current coordinates in compliance with the Commission's spacing rules. *See Figure 19.* The Joint Parties request that the Commission issue an Order to Show Cause to Idaho Wireless, the licensee of Station KZBQ(FM), Burley, Idaho, to show why KZBQ(FM)'s channel should not be changed at its current site. Millcreek reiterates that it will reimburse the licensee for its reasonable expenses in changing channel in accordance with *Circleville, Ohio, supra*.

I. STATION KITT(FM), SODA SPRINGS, IDAHO TO WILSON, WYOMING

19. In order to allot Channel 260C0 at Weston, Channel 261C2 must be deleted at Soda Springs, Idaho. Tri-State Media Corporation, licensee of Station KITT(FM), has agreed to relocate the Station to Wilson, Wyoming as that community's first local service and change the channel of the Station to Channel 260C3. *See Exhibit 1.* Millcreek reiterates that it will reimburse the licensee for its expenses in making the change in channel.

1. Technical Analysis

20. As indicated in the attached channel study, Figure 20, Channel 260C3 can be allotted to Wilson in compliance with the Commission's spacing rules. *See Figure 20.* From the proposed site the station will provide a 70 dBu signal to Wilson. *See Figure 21.* Channel 260C3 at Wilson is short-spaced to the allotment of Channel 259C at Meeteetse, Wyoming proposed in the *NPRM*. Therefore, the Joint Parties' counterproposal is mutually exclusive with the *NPRM*. As discussed below, an alternate channel is available for allotment at Meeteetse, thus resolving the conflict.

2. Change in Community of License

21. The relocation of KITT(FM) from Soda Springs to Wilson complies with the Commission's policy in *Community of License, supra*. The attached channel study, Figure 20, demonstrates that the proposed allotment of Channel 260C3 at Wilson is mutually exclusive with the current allotment of Channel 261A at Soda Springs. Soda Springs will retain existing local service, because Station KBRV(AM) will remain licensed to Soda Springs. The provision of first local services at Wilson, Wyoming (2000 U.S. Census pop. 1,294) and Ballard, Utah (2000 U.S. Census pop. 566), under priority (3) is favored over a second local service to Soda Springs (2000 Census pop. 3,381) under priority (4). The allotment of Channel 260C3 to Wilson will result in a net gain in 60 dBu service to 10,678 people. See Figure 22 The loss area will continue to receive adequate aural service. See Figure 23.

22. The community of Wilson, Wyoming, is not located within any Urbanized Area. Wilson easily qualifies as a community for allotment purposes. Wilson is located in Teton County, Wyoming along the Teton Range. Wilson is listed in the 2000 Census with a population of 1,294 persons. It has a ZIP code (83014), a volunteer fire department, several businesses, a church (Wilson Community Fellowship) and various other community indicia. The United States Postal Service operates a post office in Wilson. The Teton County School District #1 operates in Wilson the Wilson Elementary School. A number of local businesses identify with the community by using Wilson in their name including Wilson Back County Sports and Wilson Hardware & Lumber. Among the businesses located in Wilson include Teton Tree House Bed & Breakfast, Design West, Fish Creek Interiors, Inc., Rabbit Row Repair, Inc., Charney Architects LLC, Pumpkin Patch Pre-School, Nora's Fishcreek Inn, Otto Brothers Brewing Co., The Jackson State Bank & Trust and Hardeman Plumbing. See Exhibit 2.

J. PROPOSED CHANNEL 259C, MEETEETSE, WYOMING

23. As discussed above, the Joint Parties' proposal conflicts with the proposed allotment of Channel 259C at Meeteetse, Wyoming. The Commission had proposed the Meeteetse allotment on its own motion in order to eliminate a short spacing associated with the community's current vacant allotment. The Joint Parties offer the following substitute channel, Channel 288C, which can be allotted to Meeteetse to resolve the conflict.⁷ Channel 288C would also eliminate the preexisting short spacing. However, if for some reason the substitute channel cannot be allotted, the Joint Parties' counterproposal, with first local services at Wilson, Wyoming (2000 U.S. Census pop. 1,294) and Ballard, Utah (2000 U.S. Census pop. 566), under priority (3), should be preferred over the elimination of a short spacing at Meeteetse (pop. 351) under priority (4). Channel 288C can be allotted to Meeteetse at a modified transmitter site in compliance with the Commission's spacing rules. See Figure 24. A 70 dBu contour will be placed over Meeteetse. See Figure 25.

K. STATION KAOX(FM), KEMMERER, WYOMING TO SHELLEY, IDAHO

24. In order to eliminate the grey area created by the relocation of Station KITT(FM) from Soda Springs, Idaho to Wilson, Wyoming, Simmons proposes to delete Channel 297C1 at Kemmerer, Wyoming and allot Channel 297C1 to Shelley, Idaho as that community's second local service.

1. Technical Studies

25. As indicated in the attached channel study, Figure 27, Channel 297C1 can be allotted to Shelley in compliance with the Commission's spacing rules provided that changes are

⁷ In the alternative, the Joint Parties also offer the following substitute channels, Channels 292C, 267C, and 265C, that can be allotted to Meeteetse and avoid the conflict.

made at Idaho Falls, Idaho. These changes will be discussed below. From the proposed site the station will provide a 70 dBu signal to Shelley. *See* Figure 28.

2. Change in Community of License

26. The relocation of KAOX(FM) from Kemmerer to Shelley complies with the Commission's policy in *Community of License, supra*. The attached channel study, Figure 27, demonstrates that the proposed allotment of Channel 297C1 at Shelley is mutually exclusive with the current allotment of Channel 297C1 at Kemmerer. Kemmerer will retain existing local service, because Station KMER(AM) will remain licensed to Kemmerer. The provision of first local services at Wilson, Wyoming (2000 U.S. Census pop. 1,294) and Ballard, Utah (2000 U.S. Census pop. 566), under priority (3) is favored over a second local service to Kemmerer (2000 Census pop. 2,651) under priority (4). The allotment of Channel 297C1 to Shelley will result in a net gain in 60 dBu service to 253,935 people. *See* Figure 29. The loss area will continue to receive adequate aural service. *See* Figure 30.

27. Shelley has previously been determined to be qualified as a community by virtue of the allotment of Channel 292C2. *See Shelley and Island Park, Idaho*, 12 FCC Rcd 13718 (1997). Shelley is listed in the 2000 U.S. Census with a population of 3,818 persons and therefore is presumed to have the status of a community for allotment purposes. *See Arnold and Columbia, California, supra*. Simmons reiterates that, as the licensee of KAOX(FM), it will apply for Channel 297C1 to serve Shelley at a new transmitter site and construct the facility if a permit is granted.

L. STATION KQEO(FM), IDAHO FALLS, IDAHO

28. In order to allot Channel 297C1 to Shelley, Station KQEO(FM), Idaho Falls, Idaho, must change from Channel 296C1 to Channel 300C1.⁸ Channel 300C1 can be allotted to Idaho Falls at new reference coordinates in compliance with the Commission's spacing rules. See Figure 31. The station will continue to place a 70 dBu contour over Idaho Falls. See Figure 32. Sand Hill Media Corp. has provided a consent statement in which it states that, as the licensee of KQEO(FM), it will apply for Channel 300C1 to serve Idaho Falls at new reference coordinates and construct the facility if a permit is granted. See Exhibit 1. Millcreek reiterates that it will reimburse the licensee for its expenses in making the change in channel.

M. STATION KCUA(FM), NAPLES, UTAH TO DIAMONDVILLE, WYOMING

29. In order to avoid eliminate any white area created by the relocation of Station KAOX(FM) from Kemmerer to Shelley, Station KCUA(FM), Naples, Utah proposes to change its community to Diamondville, Wyoming and change its channel from 223C3 to 223C1.

1. Technical Studies

30. As indicated in the attached channel study, Figure 34, Channel 223C1 can be allotted to Diamondville in compliance with the Commission's spacing rules provided that changes are made at South Jordan, Utah. From the proposed site the station will provide a 70 dBu signal to Diamondville. See Figure 35.

2. Change in Community of License

31. The relocation of KCUA(FM) from Naples to Diamondville complies with the Commission's policy in *Community of License, supra*. The attached channel study, Figure 34, demonstrates that the proposed allotment of Channel 223C1 at Diamondville is mutually exclusive with the current allotment of Channel 223C3 at Naples. Naples will retain existing

⁸ Station KQEO(FM) has a pending application to operate on Channel 299C1. BPH - 20030204ADR.

local service, because as discussed below, the licensee of Station KIFX(FM), Roosevelt, Utah, has agreed to change its community of license to Naples. The provision of first local services at Wilson, Wyoming (2000 U.S. Census pop. 1,294) and Ballard, Utah (2000 U.S. Census pop. 566), under priority (3) is favored over a third local service to Roosevelt (2000 Census pop. 4,299) under priority (4). The loss area will continue to receive adequate aural service. *See* Figure 37.

32. 3 Point-Coalville, one of the Joint Parties, is the licensee of KCUA(FM). 3 Point-Coalville reiterates that as the licensee, it will apply for Channel 223C1 to serve Diamondville at a new transmitter site and construct the facility if a permit is granted.

N. STATION KUUU(FM), SOUTH JORDAN, UTAH

33. In order to allot Channel 223C1 to Diamondville, Station KUUU(FM), South Jordan, must change from Channel 223C2 to Channel 223A at a new transmitter site. Channel 223A can be allotted to South Jordan in compliance with the Commission's spacing rules. *See* Figure 38. The station will continue to place a 70 dBu contour over South Jordan. *See* Figure 39. The allotment of Channel 223A to South Jordan will result in a net loss on 60 dBu service to 403,145 people. *See* Figure 40. This population is more than overcome through the substantial gains of this Counterproposal as a whole. *See Ardmere, Alabama, et al.*, 17 FCC Rcd 16332 (2002). Millcreek reiterates that as the licensee of KUUU(FM), it will apply for Channel 223A and construct the facility if a permit is granted.

O. STATION KIFX(FM), ROOSEVELT TO NAPLES, UTAH

34. In order to avoid depriving Naples, Utah, of its only local service and in order to allot Channel 252C to Evanston, Wyoming, Station KIFX(FM), Roosevelt, Utah has agreed to change its community to Naples, Utah and its channel from Channel 253C2 to Channel 255C2, as described above. Millcreek reiterates that it will reimburse the licensee for its expenses in

making the change in channel. Attached hereto as Exhibit 1 is the consent statement of Evans Broadcasting, Inc., the licensee of Station KIFX(FM), agreeing to this change in community of license and transmitter site.

1. Technical Studies

35. As indicated in the attached channel study, Figure 47, Channel 255C2 can be allotted to Naples in compliance with the Commission's spacing rules provided that a change is made at Fruita, Colorado. From the proposed site the station will provide a 70 dBu signal to Naples. See Figure 48.

2. Change in Community of License

36. The relocation of KIFX(FM) from Roosevelt to Naples complies with the Commission's policy in *Community of License, supra*. The attached channel study, Figure 47, demonstrates that the proposed allotment of Channel 255C2 at Naples is mutually exclusive with the current allotment of Channel 253C2 at Roosevelt. Roosevelt will retain existing local service, because Stations KNEU(AM) and KXRQ(FM) will remain licensed to Roosevelt. The provision of first local services at Wilson, Wyoming (2000 U.S. Census pop. 1,294) and Ballard, Utah (2000 U.S. Census pop. 566), under priority (3) is favored over a third local service to Roosevelt (2000 Census pop. 4,299) under priority (4). The allotment of Channel 255C2 to Naples will result in a net gain in 60 dBu service to 31,385 people. See Figure 49. The loss area will continue to receive adequate aural service. See Figure 50.

P. VACANT CHANNEL 255C3, FRUITA, COLORADO

37. In order to allot Channel 255C2 at Naples, Utah, Channel 255A must be substituted for vacant Channel 255C3 at Fruita, Colorado. Channel 255A was allotted to Fruita in *Fruita and Hotchkiss, Colorado*, 20 FCC Rcd 10950 (2005). Channel 255A can be allotted to Fruita at its current transmitter site. See Figure 51. From the transmitter site, the station will

continue place a 70 dBu contour over all of Fruita. See Figure 52. Millcreek, one of the Joint Parties, hereby states that it will file an application for Channel 255A and construct the facilities if authorized. See *Bethel Springs, Tennessee, et al.*, 17 FCC Rcd 14472 (2002).

Q. STATION KFMR(FM), MARBLETON, WYOMING TO BALLARD, UTAH

38. In order to allot Channel 240C3 to Randolph, Utah, Channel 239C1 must be deleted at Marbleton, Wyoming. Skywest Media, LLC, licensee of Station KFMR(FM) has agreed to relocate the Station to Ballard, Utah as that community's first local service and change the channel of the Station to Channel 239C3. See Exhibit 1. Millcreek reiterates that it will reimburse the licensee for its expenses in making the change in channel.

1. Technical Studies

39. As indicated in the attached channel study, Figure 41, Channel 239C3 can be allotted to Ballard in compliance with the Commission's spacing rules. From the proposed site the station will provide a 70 dBu signal to Ballard. See Figure 42.

2. Change in Community of License

40. The relocation of KFMR(FM) from Marbleton to Ballard complies with the Commission's policy in *Community of License, supra*. The attached channel study, Figure 41, demonstrates that the proposed allotment of Channel 239C3 at Ballard is mutually exclusive with the current allotment of Channel 239C1 at Marbleton. Second, Marbleton will not be deprived of its only local service because Station KFMR(FM) has not been constructed yet.⁹ In addition, as discussed below, the Joint Parties are proposing to allot Channel 257C1 at Marbleton. The provision of first local services at Wilson, Wyoming (2000 U.S. Census pop. 1,294) and Ballard, Utah (2000 U.S. Census pop. 566), under priority (3) is favored over a second local service to

⁹ See *Chatom and Grove Hill, Alabama*, 12 FCC Rcd 7664 (1997).

Marbleton (2000 Census pop. 720) under priority (4). The allotment of Channel 239C3 to Ballard will result in a net gain in 60 dBu service to 31,385 people. *See* Figure 46.

41. Ballard, located in Uintah County, is a community for allotment purposes. Ballard is listed in the 2000 U.S. Census with a population of 566 persons and therefore is presumed to have the status of a community for allotment purposes. *See Arnold and Columbia, California*, 7 FCC Rcd 6302, ¶ 12 (1992). The zip code 84066 is associated with Ballard. According to Meris Secrest of the Town of Ballard government, Ballard has several businesses, several churches and various other community indicia. According to Ms. Secrest, Ballard was incorporated in 1978. The town government is composed an elected mayor and four town council members who serve four-year terms. Other members of the town government include a treasurer, recorder, secretary and public works manager, the latter being responsible for parks, roads and water. The Uintah School District provides public school education to the residents of the Ballard. A special service district provides water and sewer services to the town residents. Among the businesses located in Ballard include Big O Tree, Performance Auto, J.P. Saddle and two beauty salons. *See* Exhibit 3.

R. NEW CHANNEL 257C1, MARBLETON, WYOMING

1. Technical Analysis

42. In order to ensure that Marbleton retains a channel, the Joint Parties propose to allot Channel 257C1 to Marbleton. As indicated in the attached channel study, Figure 44, Channel 257C1 can be allotted to Marbleton, Wyoming in compliance with the Commission's spacing rules. From the proposed site the station will provide a 70 dBu signal to Marbleton. *See* Figure 45. The Joint Parties hereby states that they will file an application specifying the new channel and construct the facilities if their application is granted.

2. Change in Community of License

43. Marbleton has previously been determined to be qualified as a community by virtue of the allotment of Channel 239A. *See Thayne and Marbleton, Wyoming*, 14 FCC Rcd 20619 (1999). Shelley is listed in the 2000 U.S. Census with a population of 720 persons and therefore is presumed to have the status of a community for allotment purposes. *See Arnold and Columbia, California, supra*.

IV. CONCLUSION

Grant of this Counterproposal is in the public interest because it will provide new first local services at Wilson, Wyoming and Ballard, Utah and an overall net gain in radio service to 233,238 people. All communities will retain local service, and all loss areas will remain well served. The Joint Parties are confident that the changes can be implemented smoothly with a minimum of disruption. Accordingly, the Commission should grant this Counterproposal.

Respectfully submitted,

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SIMMONS SLC-LS, LLC

3 POINT MEDIA – COALVILLE, LLC

3 POINT MEDIA- DELTA, LLC

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September 19, 2005

Their Counsel



ENGINEERING STATEMENT

**IN SUPPORT OF A
COUNTERPROPOSAL**

MB DOCKET 05-243

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Simmons SLC-LS, LLC
3 Point Media – Coalville, LLC
College Creek Broadcasting LLC
3 Point Media – Delta, LLC**

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September 19, 2005

ENGINEERING STATEMENT

**In Support of a
Counterproposal
MB Docket 05-243
The Joint Parties
Meeteetse, WY**

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ENGINEERING STATEMENT

In Support of a
Counterproposal
MB Docket 05-243
The Joint Parties
Meeteetse, WY

Introduction

College Creek Broadcasting LLC ("College Creek"), permittee of new stations 252C2 Evanston, WY, and 237C3 Wellington, UT; Millcreek Broadcasting, permittee of Station KUUU(FM), South Jordan, UT; Simmons-SLC, LS, LLC, licensee of Station KAOX(FM) Kemmerer, WY; 3 Point Media – Coalville, LLC ("3 Point Coalville"), licensee of Station KCUA(FM), Naples, UT; and 3 Point Media – Delta, LLC ("3 Point Delta"), licensee of Station KMGR(FM), Delta, Utah (together, the "Joint Parties") hereby offers the instant engineering statement in support of its counterproposal to the *Notice of Proposed Rule Making*, DA 05-2205 (rel. July 29, 2005) ("*NPRM*") in the above-captioned proceeding. The counterproposal is mutually exclusive to MB Docket 05-243, which proposes the allocation of channel 259C at Meeteetse, WY, as that community's first local service.

All proposed spectrum modifications are first demonstrated by a channel or allocations study. The study shows the spacings to all known FM entries in the Commission's database, and it also establishes whether additional spectrum modifications are required. Spectrum modifications that require antenna site relocations, class changes or community of license changes are followed by a series of maps demonstrating compliance with all current Commission allotment rules.

The Joint Parties' counterproposal creates first local services at Wilson, Wyoming (population 1,294), and Ballard, Utah (population 566). While the total population of these communities (combined population of 1,860) dwarfs that of Meeteetse, WY (population 351), the instant counterproposal continues to provide for first local aural service at Meeteetse on channel 288C instead of 259C at a modified site. In fact, at the site proposed for Channel 288C at Meeteetse, the Joint Parties' counterproposal has the added benefit of providing first aural service to 6 persons and a portion of US Highways 26 and 287 which are major access routes used by visitors to Yellowstone and Grand Teton National Parks under Priority 1. In addition to the increase in population receiving new service, the instant counterproposal is preferred as it creates first local service under Priority 3 of the

Commission's allotment priorities at three communities while the addition of 259C at Meeteetse only provides first local service under Priority 3 to a single community. The counterproposal has the added benefit of creating second local services at Shelley, Idaho (population 3,813) and Randolph, Utah (population 483) under Priority 4. Finally, the net increase in total population served as a result of the counterproposal is 233,238 persons under Priority 4.

The following page includes a summary of the changes proposed to the FM Table of Allotments (listed alphabetically by state).

City	Current	Proposed
Fruita, CO	255C3, 260C	260C, 255A
Burley, ID	260C	228C
Idaho Falls, ID	241C, 256C1, 277C1, 288C1, 296C1	241C, 256C1, 277C1 288C1, 300C1
Pocatello, ID	221C2, 229C , 235C, 273C	221C2, 230C , 235C, 273C
Shelley, ID	-----	297C1
Soda Springs, ID ¹	261C2	-----
Weston, ID	240C3	260C3
Ballard, UT	-----	239C3
Delta, UT ²	240C1	-----
Naples, UT	223C3	255C2
Price, UT	252C3 , 261A	237C3 , 261A
Randolph, UT	272C	272C, 240C0
Roosevelt, UT	232C1, 253C2	232C1
Salina, UT	233C	239C
South Jordan, UT	223C2	223A
Wellington, UT	237C3	233C3
Diamondville, WY	287C2	287C2, 223C1
Evanston, WY	252C2 , 291C	252C , 292C
Kemmerer, WY ³	297C2	-----
Marbleton, WY	239C1	257C1
Meeteetse, WY	-----	288C
Wilson, WY	-----	260C3

The Joint Parties' counterproposal is presented first with a Methods section that demonstrates the end results and the spectrum changes, and sub changes where needed, required to implement the request. A section entitled Exhibits Explained follows such Methods section. It lists each technical exhibit and the data it documents.

¹ Soda Springs, ID, will continue to be served by KBRV (AM) 790 kHz

² Delta, UT, will continue to be served by KNAK (AM) 540 kHz

³ Kemmerer, WY, will continue to be served by KMER (AM) 950 kHz